

## Message Text

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ORIGIN SS-30

INFO OCT-01 ISO-00 /031 R

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S/S - MR. LUERS

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P 072338Z FEB 74

FM SECSTATE WASHDC

TO AMEMBASSY SANTIAGO PRIORITY

C O N F I D E N T I A L STATE 026172

EXDIS

E.O. 11652:GDS

TAGS: CI, US, EFIN, EMIN

SUBJECT: COPPER NEGOTIATIONS

REF: STATE 22593

1. AS OFFERED AT PREVIOUS MEETING (REFTTEL), GOC COPPER NEGOTIATOR PHILIPPI BRIEFED DEPARTMENT OFFICERS FEB 5 ON OUTCOME OF HIS DISCUSSIONS HERE WITH COPPER COMPANIES. PHILIPPI PLANS DEPART WASHINGTON FEB 6, ARRIVING SANTIAGO FEB 8 OR 9.

2. AFTER CHARACTERIZING HIS TALKS WITH COMPANIES AND OPIC (MEMCON BEING POUCHED) AS "FRANK AND CORDIAL", PHILIPPI PROVIDED FOLLOWING RUNDOWN:

A. CERRO: REITERATED THAT THERE WAS ESSENTIAL AGREEMENT ON REPAYMENT OBLIGATIONS. PHILIPPI AND SAEZ' FOLLOW-UP MEETING FEB 4 WITH MURPHY, WALSH AND WESTBY WAS INCONCLUSIVE, HOWEVER. CERRO PRESENTED A REPAYMENT SCHEDULE FORMULA WHICH SAEZ FOUND UNACCEPTABLE. WALSH AND WESTBY CONFIDENTIAL

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EXPECTED IN SANTIAGO FEB\*12 OR 13 TO TALK FURTHER RE REPAYMENT TERMS AND ALSO TO CONFER WITH CODELCO RE POSSIBILITY OF ACCELERATING REPAYMENT BY TAKING PORTION IN CONCENTRATES AND MINE TAILINGS. LATTER EXPEDIENT, HE SAID,

WOULD ENABLE GOB TO MEET ITS COMMITMENTS TO IMF WITH REGARD TO SHORT-TERM DEBT CEILING. PHILIPPI SUMMARIZED SITUATION AS THE "BEGINNING OF A SOLUTION".

B. ANACONDA: IMPLIED THAT CONVERSATIONS WERE STILL PRELIMINARY, BUT HE FOUND ANACONDA, IN THEIR TWO MEETINGS, WELL INFORMED. NEXT MEETING TENTATIVELY SCHEDULED FOR WASHINGTON AROUND MARCH 10.

C. KENNECOTT: BEFORE SETTING DATE FOR ANOTHER ROUND, MICHAELSON SAID FIRM WOULD WANT TO RECONTRACT A LAWYER IN CHILE TO ASSEMBLE DATA. PHILIPPI SAID HE OFFERED MAKE AVAILABLE CODELCO FILES. PHILIPPI WOULD SEEK RESUMPTION OF DISCUSSIONS WHEN BACK HERE IN MARCH.

3. PHILIPPI WENT INTO SOME DETAIL ON TAX LIABILITY PROBLEM, WHILE CONFESSING THAT BACKGROUND PREPARED FOR HIM BY CHILEAN INTERNAL REVENUE SERVICE WAS NOT ENTIRELY RELIABLE AND NEEDED FURTHER WORK. HE REITERATED HIS IMPRESSION THAT TAX CLAIM AGAINST CERRO WOULD NOT STAND UP, CITING RECENT SUPREME COURT FINDING IN BEZANILLA Y SALINAS (TENIENTE EXPANSION CONTRACTORS) CASE IN FAVOR OF DEFENDANTS, WHOSE SITUATION HE CONSIDERED ANALOGOUS TO CERRO'S.

4. IN RECENT CONTACTS WITH USG OFFICIALS, CERRO WAS NOT AS SANGUINE ABOUT PROSPECT FOR RAPID SETTLEMENT. COMPANY INDICATED CONCERN OVER PHILIPPI'S APPARENT LACK OF RESOLVE TO OVERCOME ALL LEGAL PROBLEMS ON BASIS OF AN AGREED UPON FINANCIAL FORMULA (MEMCON IN PREPARATION).

5. ANACONDA'S QUIGLEY EXPRESSED DISAPPOINTMENT TO DEPARTMENT OVER WHAT CAME ACROSS TO HIM AS PHILIPPI'S EXCESSIVELY LEGALISTIC AND ABSTRACT APPROACH TO THE PROBLEM. PHILIPPI HAS APPARENTLY SO FAR BEEN UNRESPONSIVE TO ANACONDA'S APPEALS FOR EARLY DISCUSSIONS ON MAJOR ISSUES. (OUR UNDERSTANDING OF COMPANY'S POSITION IS THAT GOC SHOULD ACKNOWLEDGE NOTES FOR THE 51 AS LEGAL OBLIGATION -- CONFIDENTIAL

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SUBJECT, OF COURSE, TO POSSIBLE RESCHEDULING -- AND THEN PROCEED TO NEGOTIATIONS ON COMPENSATION FOR THE REMAINING 49. QUIGLEY IS PREPARED TO TREAT TAX PROBLEMS AS A PARALLEL ISSUE.)

6. AS FOR KENNECOTT, MICHAELSON REPORTED TO US THAT HIS TALK WITH PHILIPPI PRODUCED NO VISIBLE PROGRESS. ACCORDING TO MICHAELSON, KENNECOTT CONTINUES TO MAINTAIN THAT NEGOTIATIONS WITHIN THE FRAMEWORK OF THE CONSTITUTIONAL AMENDMENT ARE NOT FEASIBLE SINCE, AMONG OTHER ISSUES, THE COMPANY CANNOT ACCEPT THE CONCEPT OF BOOK VALUE DETERMINING ADEQUATE COMPENSATION. RUSH

CONFIDENTIAL

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## Message Attributes

**Automatic Decaptioning:** Z  
**Capture Date:** 27 JUL 1999  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** COPPER, MINING INDUSTRY, NEGOTIATIONS, BRIEFING MATERIALS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 07 FEB 1974  
**Decaption Date:** 28 MAY 2004  
**Decaption Note:** 25 YEAR REVIEW  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** golinofr  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1974STATE026172  
**Document Source:** ADS  
**Document Unique ID:** 00  
**Drafter:** ARA:HWSHLAUDEMAN;ARA/BC/C:AISAACS:BJD  
**Enclosure:** n/a  
**Executive Order:** 11652 GDS  
**Errors:** n/a  
**Film Number:** P740146-1706  
**From:** STATE  
**Handling Restrictions:** n/a  
**Image Path:**  
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**Legacy Key:** link1974/newtext/t19740268/abbrzcep.tel  
**Line Count:** 110  
**Locator:** TEXT ON-LINE, TEXT ON MICROFILM  
**Office:** ORIGIN SS  
**Original Classification:** CONFIDENTIAL  
**Original Handling Restrictions:** EXDIS  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 3  
**Previous Channel Indicators:**  
**Previous Classification:** CONFIDENTIAL  
**Previous Handling Restrictions:** EXDIS  
**Reference:** STATE 22593  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** golinofr  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 11 SEP 2002  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <11 SEP 2002 by kelleyw0>; APPROVED <09 DEC 2002 by golinofr>  
**Review Markings:**

Declassified/Released  
US Department of State  
EO Systematic Review  
30 JUN 2005

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** COPPER NEGOTIATIONS  
**TAGS:** EFIN, EMIN, CI, US  
**To:** SANTIAGO  
**Type:** TE  
**Markings:** Declassified/Released US Department of State EO Systematic Review 30 JUN 2005